



FWH:DNL:DLKaplan

U.S. Department of Justice
Civil Division, Appellate Staff
601 D Street, N.W. Room 9539
Washington, D.C. 20530-0001

Tel: (202) 514-5083

Fax: (202) 514-7964

August 13, 1998

BY HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

EX PARTE PRESENTATION FILED

RECEIVED

AUG 14 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: **EX PARTE PRESENTATION**
In the Matter Of: Communications Assistance for Law Enforcement Act
CC Docket No. 97-213

Dear Ms. Salas:

On August 13, 1998, representatives of the Department of Justice, Federal Bureau of Investigation, and Booz-Allen & Hamilton ("the Department") met with representatives of the Federal Communications Commission ("the Commission") to discuss the above-referenced matter. Present from the Department of Justice were Douglas N. Letter, Scott R. McIntosh, Stephen W. Preston, and Jonathan D. Schwartz. Present from the Federal Bureau of Investigation were Lynn Pierce and H. Michael Warren. Present from Booz-Allen & Hamilton were Henry Hodor and Michael McMenamin. Present from the Federal Communications Commission were Dan Connors, Rebecca Dorch, Ari Fitzgerald, James Green, Karen Gulick, Paul A. Jackson, Dennis Johnson, Julius Knapp, Paul Moon, Rodney Small, and David Wye.

The subject of this meeting was the merits of the positions taken by the Department in previous filings regarding the proper scope and substance of the rule the Commission will issue in connection with the Communications Assistance for Law Enforcement Act. Specifically, the parties discussed the "punch-list" capabilities which the Department maintains are required by the Act. The Department also distributed a set of illustrative handouts, which are attached to this letter.

No. of Copies rec'd CH 1
UNAB CDE

Pursuant to Section 1.1206 of the Commission's Rules, an original and one copy of this letter are enclosed. Copies of this letter are simultaneously being provided to the Commission representatives identified above.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Daniel L. Kaplan".

Daniel L. Kaplan
Attorney, Appellate Staff

cc: Dan Connors, Rebecca Dorch, Ari Fitzgerald, James Green, Karen Gulick, Paul A. Jackson, Dennis Johnson, Julius Knapp, Paul Moon, Rodney Small, David Wye

BRIEF DESCRIPTION OF PUNCH-LIST CAPABILITIES

Number	Name	Description
1	Content of subject-initiated conference calls	Capability that would enable law enforcement to access the content of conference calls supported by the subject's service (including the call content of parties on hold).
2	Party Hold, Join, Drop	Messages would be sent to law enforcement that identify the active parties of a call. Specifically, on a conference call, whether a party is on hold, has joined, or has been dropped from the conference call.
3	Access to subject-initiated dialing and signaling	Access to all dialing and signaling information available from the subject would inform law enforcement of a subject's use of features. (Examples include the use of flash-hook and other feature keys).
4	In-band and out-of-band signaling (Notification Message)	A message would be sent to law enforcement when a subject's service sends a tone or other network message to the subject or associate. This can include notification that a line is ringing or busy.
5	Timing to associate call data to content	Information necessary to correlate call identifying information with the call content of a communications interception.
6	Surveillance Status Message	Message that would provide the verification that an interception is still functioning on the appropriate subject.
7	Continuity check (C-Tone)	Electronic signal that would alert law enforcement if the facility used for delivery of call content interception has failed or lost continuity.
8	Feature Status Message	Message that would provide affirmative notification of any change in a subject's subscribed-to features.
9	Dialed digit extraction	Information that would include those digits dialed by a subject after the initial call setup is completed.

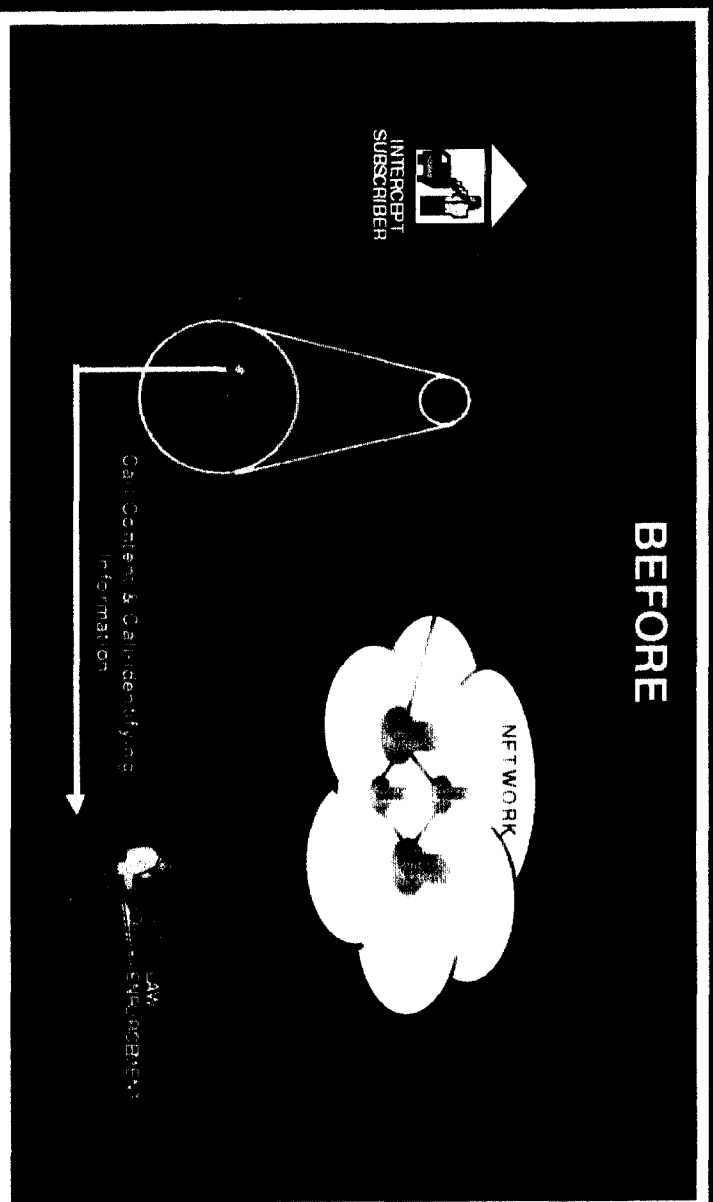
**COMMUNICATIONS ASSISTANCE FOR LAW
ENFORCEMENT ACT (CALEA)**

**ASSISTANCE CAPABILITY
PRESENTATION**

August 13, 1998

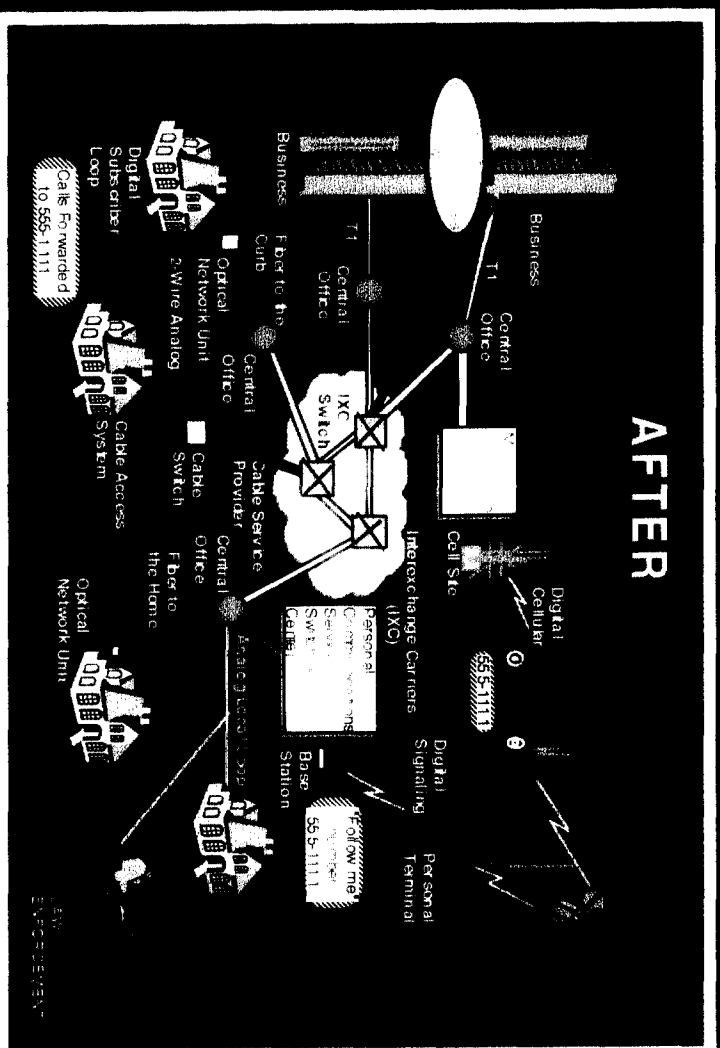
CONGRESS PASSED CALEA TO CORRECT THE IMBALANCE RESULTING FROM DEPLOYMENT OF SOPHISTICATED FEATURES AND SERVICES...

BEFORE



- Law enforcement conducted electronic surveillance by physically connecting to the local loop.
- Traditionally, all features and services available to criminals were available to law enforcement.
- Criminals' ability to use telecommunications to facilitate crime was matched by law enforcement's ability to stop it.

CONGRESS PASSED CALEA TO CORRECT THE IMBALANCE RESULTING FROM DEPLOYMENT OF SOPHISTICATED FEATURES AND SERVICES...

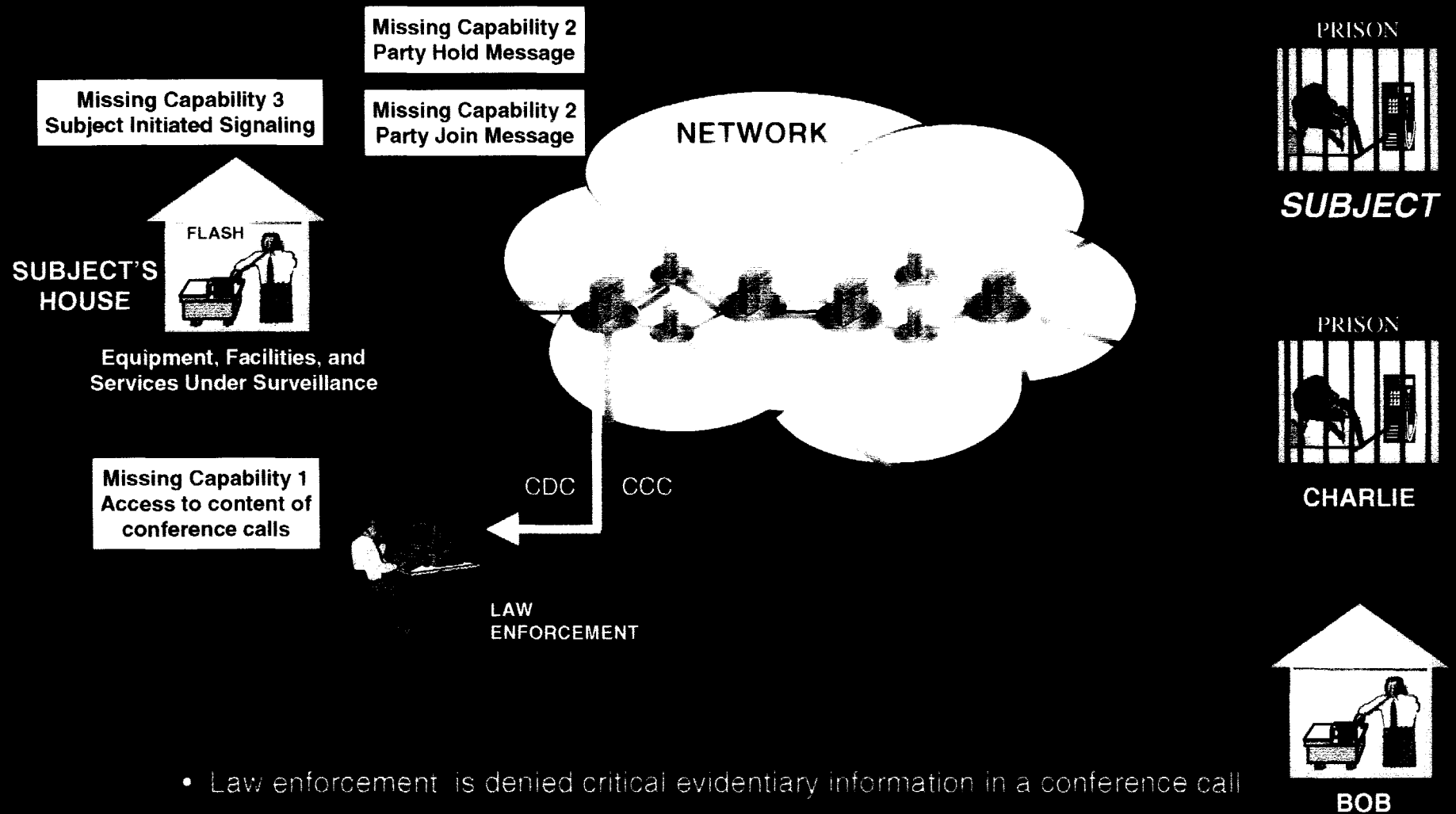


- As sophisticated, digital features and services were deployed, this balance tilted increasingly in favor of criminals.
- CALEA was enacted to ensure that new technologies and services do not hinder law enforcement's access to the communications of a subscriber... (H. Rpt. 103-827)
- J-STD-025 fails to deliver certain critical assistance capabilities necessary to conduct effective electronic surveillance.
- Result: criminals now regularly use features and services to evade electronic surveillance.

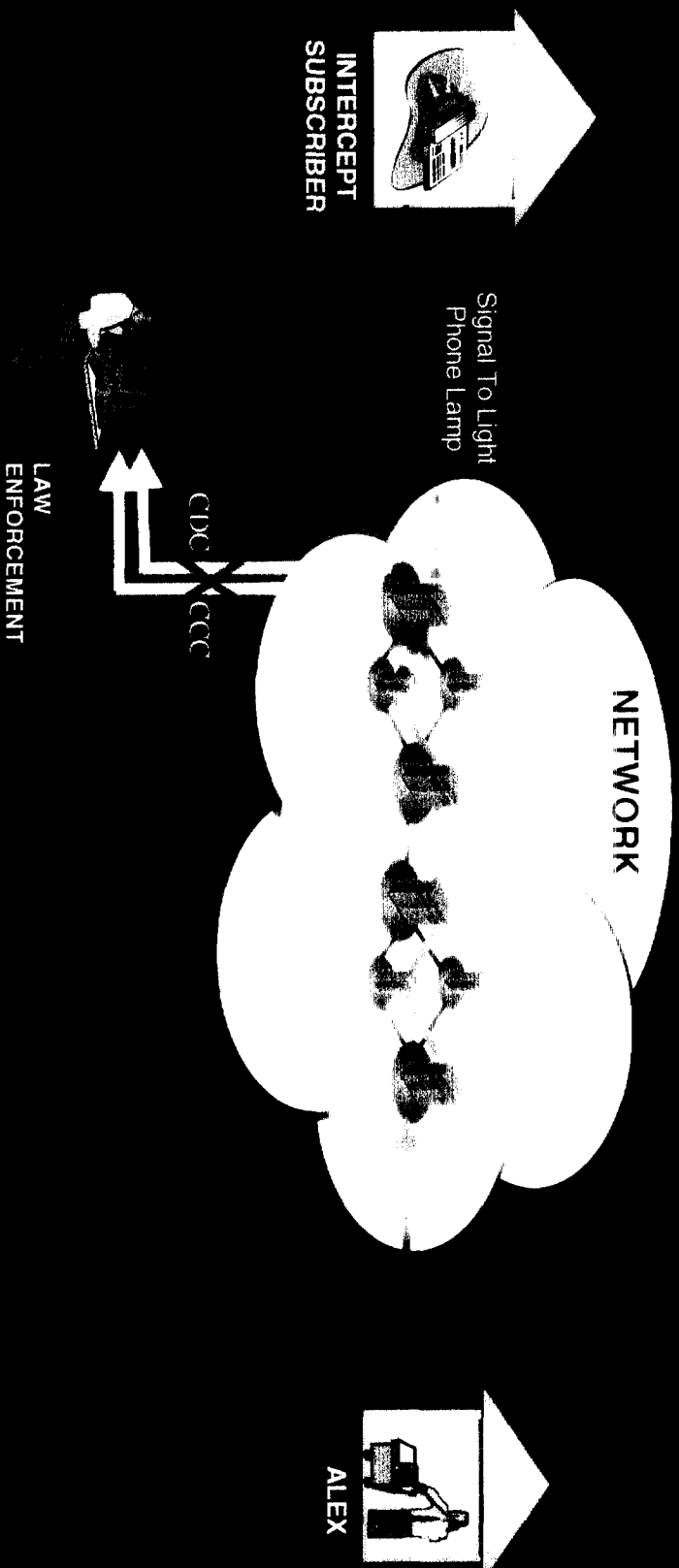
THE MISSING CAPABILITIES ARE SUPPORTED BY CONGRESSIONAL INTENT, LEGAL AUTHORITY, AND INVESTIGATIVE NEED

- The Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) have found the following assistance capabilities to be required by CALEA and supported by the underlying electronic surveillance statutes:
 1. Content of Conference Calls
 2. Party Hold, Party Join, Party Drop
 3. Subject Initiated Dialing & Signaling
 4. Notification Message
 5. Timely Delivery of Call Identifying Information
 6. Surveillance Status Message
 7. Continuity Check
 8. Feature Status Message
 9. Post-Call Through Dated Digits
- Each assistance capability is necessary to satisfy evidentiary and minimization requirements demanded by a court of law.
- Each assistance capability is contemplated to ensure that law enforcement receive the same information to which it had access prior to the advent of sophisticated, digital features and services.
- Each missing capability was originally offered by industry.

EXAMPLE OF A CONFERENCE CALL

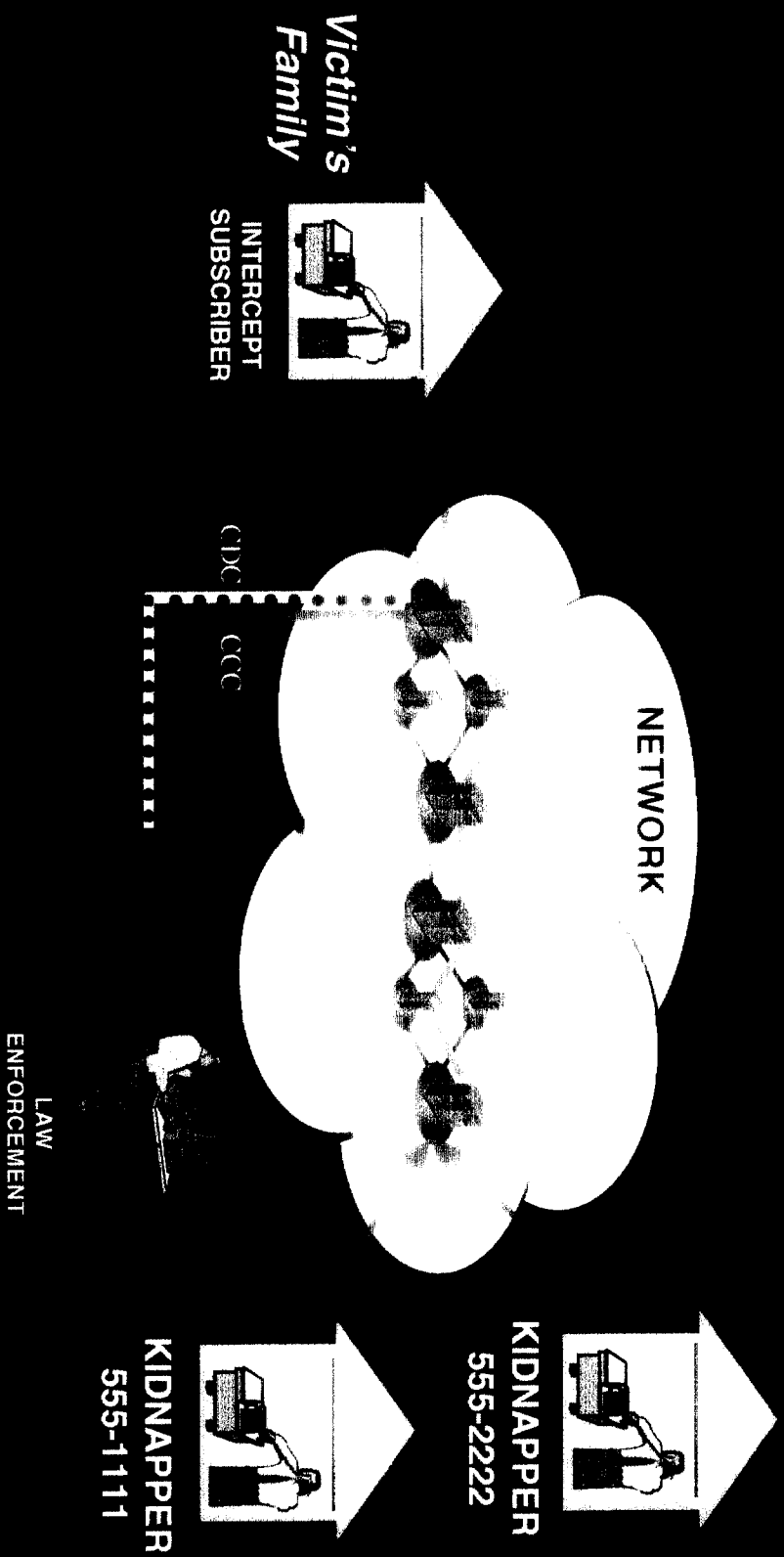


EXAMPLE WHERE NOTIFICATION MESSAGE IS NEEDED



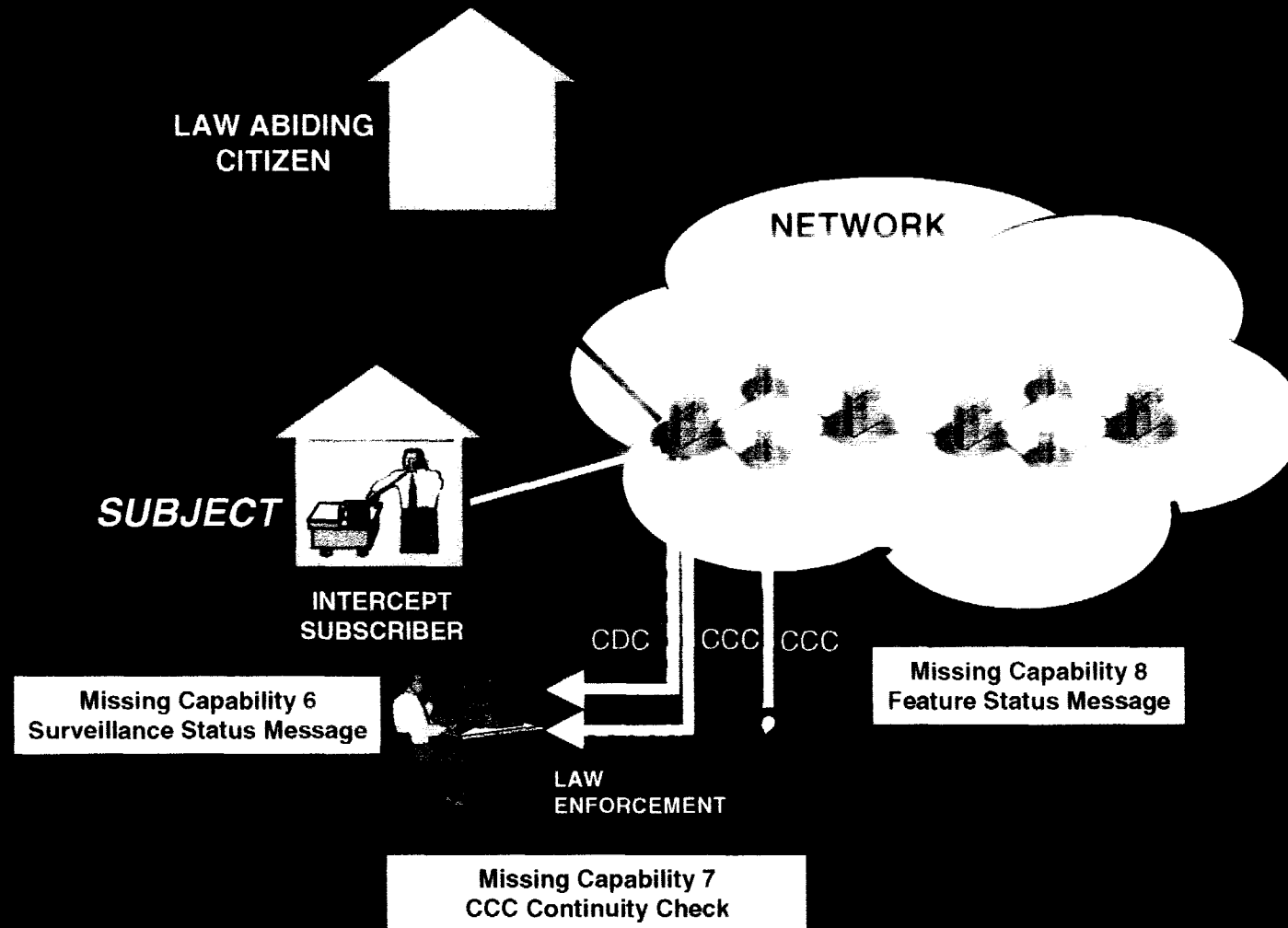
- Law enforcement would not be aware of signals that have meaning to criminals
- Law enforcement would not be prompted to use other methods to gain access to communications left at drop-off points

EXAMPLE OF THE IMPORTANCE OF TIMELY DELIVERY OF CALL-IDENTIFYING INFORMATION



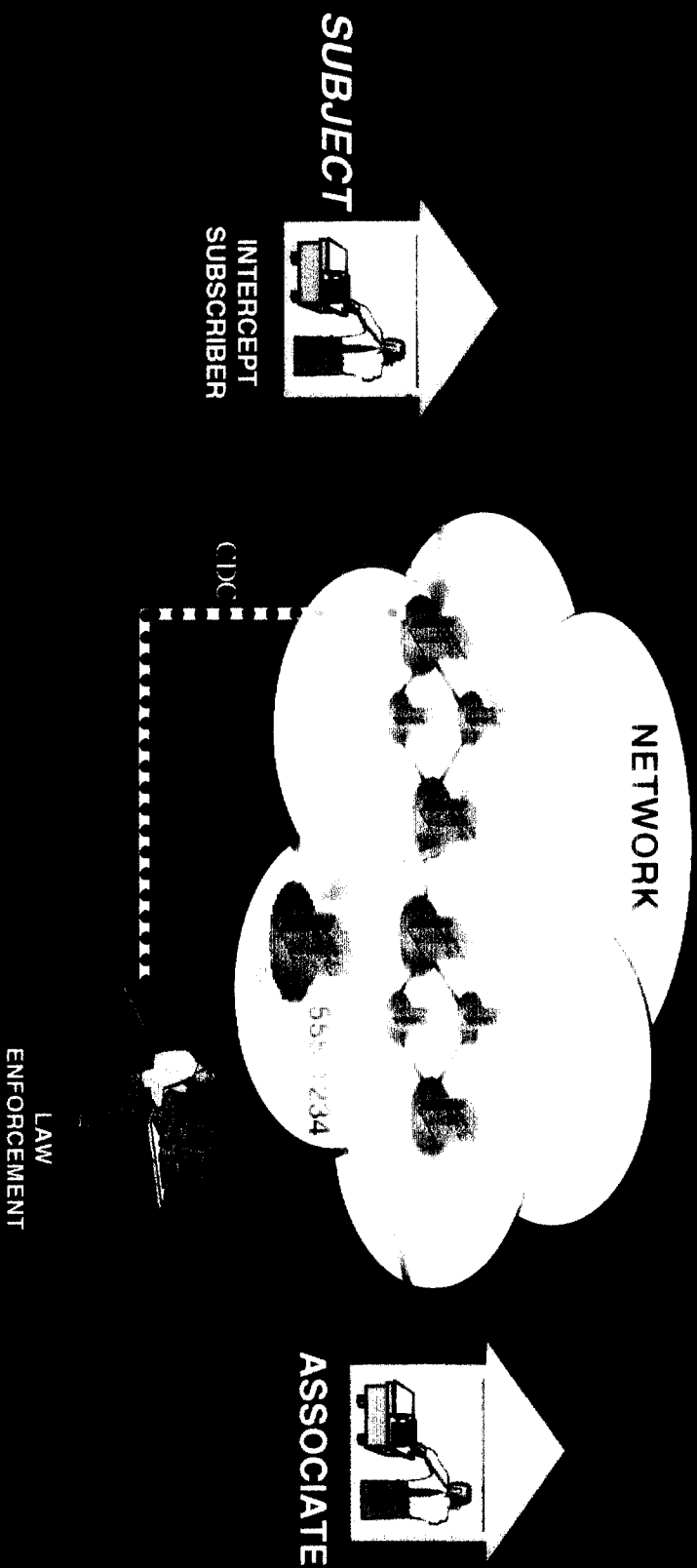
- Law enforcement would not receive call-identifying information
- Law enforcement would not be able to correlate call-identifying information with call content

EXAMPLE OF CAPABILITIES THAT ENSURE THE INTEGRITY OF A SURVEILLANCE



- Law enforcement would not be ensured of the integrity of the surveillance

EXAMPLE OF THE NEED FOR DIALED DIGIT EXTRACTION



- Law enforcement needs to know the phone number associated with the party who answers the call so that the party can be identified
- Law enforcement might learn that the associate is about to commit a life-threatening crime, but would not have enough information to react

THE MISSING CAPABILITIES ARE SUPPORTED BY CONGRESSIONAL INTENT, LEGAL AUTHORITY, AND INVESTIGATIVE NEED

- The Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) have found the following assistance capabilities to be required by CALEA and supported by the underlying electronic surveillance statutes:
 1. Content of Conference Calls
 2. Party Hold, Party Join, Party Drop
 3. Subject Initiated Dialing & Signaling
 4. Notification Message
 5. Timely Delivery of Call-identifying information
 6. Surveillance Status Message
 7. Community Check
 8. Feature Status Message
 9. Post-Out-Through Dialed Digits
- Each assistance capability is necessary to satisfy evidentiary and minimization requirements demanded by a court of law.
- Each assistance capability is contemplated to ensure that law enforcement receive the same information to which it had access prior to the advent of sophisticated, digital features and services.
- Each missing capability was originally offered by industry.